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# MEMORIAL

Relating to the

*Court of Marshalsea*

OF THE

KING's HOUSEHOLD,

Held in the

Borough of SOUTHWARK.

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Written by Mr. A S G I L L. *AC*

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*Litera scripta manet.*

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# MEMORIAL

Relating to the

## Marshalsea-Court

### In SOUTHWARK.

**B**Y Article super Chart. 28 Ed. I. The  
Stewards and Marshals of the King's  
House, shall not hold Plea of Free-  
hold, Debt, Covenant, or Contract; but only  
of Trespass done in the House or Verge, or of

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*Contracts and Covenants when both Parties  
are of the House.*

*And the Steward shall from henceforth  
take no Cognizance of Debt, or other things,  
but of the People of the same House.*

*And if any thing be done contrary to this  
Act, it shall be void.*

*By 13 R. II. The Jurisdiction of the Stew-  
ard and Marshal of the King's House shall  
extend no farther than 12 Miles from the  
King's Lodgings.*

*(Which Extent every way makes the whole  
Diameter thereof 72 Miles in Circumference.)*

*By 15 H. VI. In a Suit commenced before  
the Steward and Marshal of the King's  
House, the Defendant shall not be estopped to  
plead, That the Plaintiff or he are not of the  
King's House.*

Notwithstanding all which, this Court doth execute their Process against any of the Subjects (not being Peers) residing, coming, or being within the Diameter of their Jurisdiction (except within the City of London) altho neither Plaintiff or Defendant are of the Household.

To

To which the Defendants are not admitted to plead (as directed by 15 H. VI.) till they have given special Bail of two House-Keepers within the Limits aforesaid (exclusive of the City of London.)

Which if the Defendants cannot procure, they are committed to the Prison of that Court called the *Marshalsea*.

And in truth not only the Defendants, but many Practicers of the Law, are ignorant of the Right to this Plea.

Which being a foreign Plea must be also signed by Counsel.

By reason of all which (according to the Account lately returned) there are now 330 Prisoners in that Jail, without any Causes of Action, the pretended Causes being *coram non Judice*, as not cognizable in that Court.

Being not only a Grievance upon the Subjects, but an Usurpation upon the Law it self, and an Incroachment upon the Jurisdiction of the King's Court at *Westminster*, who hold Pleas of the greatest Causes, and upon the inferior Courts, who hold Pleas of the lesser.

Which

Which gave occasion to the late Lord Chief Justice Holt to declare that Court a common Nusance, presentable by a Grand Jury.

And tho' the great Officers thereof, and those deriving under them, are too mighty for their Prisoners to lift up their Heels against them,

Yet the House of Commons (as the Grand Inquest of the Kingdom) have Right to inquire into, and have Redress of this Grievance (if they find it to be so.)

Which Redress (as is conceived) may be done by the following (or like) Clause to be inserted in any Act, viz.

" That from henceforth, in all Suits commenced before the Steward and Marshal of the King's House, the Plaintiffs and Defendants in the Writs therein named, shall be so named with an Addition of the King's Household; and that the Defendant upon Entring an Appearance, and Filing common Bail, shall be admitted to the Plea directed by the Stat. 15 H. VI. That the Plaintiff or he are not of the Household; which Plea shall be received without being signed by Counsel. And if

" if the Plaintiff neglect or refuse to join  
 " Issue thereon, or that on Trial thereof  
 " a Verdict go against him, the Defendant  
 " shall be discharged, and the Plaintiff pay  
 " Costs."

Against which Redress no Offence can be  
 justly taken, the same being no Suppression  
 of or Infringement upon the Jurisdiction of  
 that Court; but only a Memorandum for  
 them to keep themselves within the due  
 Bounds of their Original Institution.

And there seeming to be a Spirit raised in  
 the present Legislature to be canonized as  
 Authors of a Jubilee, for Redemption and  
 Relief of Captives in Debt and Prison, so  
 far as Justice and Mercy may meet toge-  
 ther in doing it,

Is a Dictate for me to vent this *Memo-  
 rial* at this time: Which, tho' it should not  
 meet with present Success, I have had the  
 Satisfaction of bearing my Testimony in  
 it.

The Dissolution of Monasteries, and the  
 taking away the Court of Wards, did nei-  
 ther of them succeed upon the first or second  
 Instance made for them.

And

And if the Crys and Clamours of Monks  
and Friars had prevailed against the first,  
or of Masters of Request and Escheators  
against the last, they might both of them have  
remained to this Day.

"Copy."

To which I shall make no other Application  
than to repeat my Motto:

*Litera scripta manet.*

And wherefore to be a Scribe is  
the privilege of a Clerke to be encompasse  
with a Clerke's robe, for Registration  
of Chancery Causes in Decr. and Regis.  
and to be a Clerke of the King's Bench to  
have the privilege of being a Lawyer.

Is a Clerke for me to have this Privileg  
as at this time: Whiche, who it shoud not  
miss mye Clerke Success, I have had the  
privileg of bearing my Testimony in  
suites made for me.

The Dilligation of Monks  
curing sway the Count of Wales did he  
liver of piers jacques upon the first of October  
last made for me.

And

